

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-08-008

IN THE MATTER OF THE MARKET CONDUCT DESK EXAMINATION OF PACIFICARE LIFE ASSURANCE COMPANY,

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct desk examination conducted by the Colorado Division of Insurance (the "Division") of Pacificare Life Assurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct desk examination report dated March 23, 2007 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as a life and health insurance company.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on March 23, 2007, the Division completed a market conduct desk examination of the Respondent. The period of examination was January 1, 2006 to December 31, 2006.
3. In scheduling the market conduct desk examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set for the in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the market conduct desk examination, the examiner observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado Insurance Examiners Handbook. The Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiner prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the final Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue E1 concerns the following violation: Failure to include coverage for injectable medication under prescription drug benefits in the Basic and Standard Health Benefit Plans. The Respondent shall provide evidence that it has amended its Basic and Standard Health Benefit Plans to include coverage for injectable medication under the prescription drug benefits of such plans and implemented the necessary procedural changes to ensure compliance with Colorado insurance law.
10. Issue H1 concerns the following violation: Failure to timely, and in a consistent manner, terminate small group policies for non-payment of premium. The Respondent shall provide evidence that it has amended its cancellation procedures for non-payment of premium and implemented the necessary changes to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
11. Issue H2 concerns the following violation: Failure to offer conversion coverage in a timely manner to members of groups whose policies are terminated for non-payment of premium. The Respondent shall provide evidence that it has established procedures to ensure that all members of groups whose coverage was terminated for non-payment of premium, are notified of the coverage termination and offered conversion coverage in a timely manner in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

12. Issue J1 concerns the following violation: Failure, in some cases, to properly adjudicate participating provider claims. The Respondent shall provide evidence that it has reviewed its claims adjudication procedure where a maximum benefit has been reached and has implemented the necessary procedural changes to ensure compliance with Colorado insurance law. Additionally, Respondent shall perform a self audit and pay any benefits due, including interest and penalties, for claims where Respondent failed to apply the "insured's discount" when the maximum benefit allowed under the plan was reached for the time period beginning January 1, 2006 to July 30, 2007. Respondent shall submit a summary of its findings to the Division on or before October 29, 2007.
13. Issue J2 concerns the following violation: Failure to properly pay claims during the thirty-one (31) day grace period. The Respondent shall provide evidence that it has reviewed its procedures concerning claims incurred during the thirty-one (31) day grace period and has implemented the necessary procedural changes to ensure compliance with Colorado insurance law. Respondent shall perform a self audit and pay any benefits due, including interest and penalties, for claims that were incurred during the members' group grace periods where the group's policies were retroactively terminated for non-payment of premium. Respondent shall refund any charges for services eligible for reimbursement that resulted from Respondent retroactively terminating group health policies for non-payment of premium. Additionally, Respondent shall waive any filing requirements for claims that were submitted as a result of terminating coverage retroactively that should have remained in effect during the grace period. The self-audit shall encompass the time period beginning January 1, 2006 to July 30, 2007. Respondent shall submit a summary of the findings to the Division on or before October 29, 2007.
14. Pursuant to § 10-1-205(3)(d), C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of forty-six thousand and 00/100 dollars (\$46,000.00) for the cited violations of Colorado insurance law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division Bulletin No. B-1.3, originally issued on January 1, 1998, re-issued May 8, 2007.
15. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related order.

16. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market regulation section. All self audits, if any, shall be performed in accordance with the Division's document, 'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
17. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
18. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final examination report dated March 23, 2007 are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 30th day of July, 2007.



Marcy Morrison
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 30th of July, 2007, I caused to be deposited the **FINAL AGENCY ORDER NO. O-08-008 IN THE MATTER OF THE MARKET CONDUCT DESK EXAMINATION OF PACIFICARE LIFE ASSURANCE COMPANY**, in the United States mail via certified mailing with proper postage affixed and addressed to:

Susan L. Berkel, President
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Market Regulation Section
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